

FILED
1/31/2020

JJR

**THOMAS G. BRUTON
CLERK, U.S. DISTRICT COURT**
**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DIAMOND MOTORWORKS,
individually and as the representatives of
a class of similarly situated persons and
entities,

Plaintiff,
v.

WYNDHAM DESTINATIONS, INC.,
RCI, LLC, and JOHN DOE
DEFENDANTS,

Defendant.

Case No. 1:19-cv-06950

Honorable Judge Steven C. Seeger

**NOTICE OF VOLUNTARY DISMISSAL AS TO DEFENDANTS WYNDHAM
DESTINATIONS, INC AND RCI, LLC**

NOW COMES, DIAMOND MOTORWORKS (“Plaintiff”), pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i), and in support of its Notice of Voluntary Dismissal as to Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC, states as follows:

1. Plaintiff, individually and on behalf of a class of similarly situated individuals, filed a putative class action suit against Defendants (a) WYNDHAM DESTINATIONS, INC., (b) RCI, LLC, and (c) currently unknown JOHN DOE Defendants pursuant to the Telephone Consumer Protection Act of 1991, 47 USC §227, *et seq.* The putative class action alleges that one or more of the Defendants sent an advertising facsimile to Plaintiff without Plaintiff’s express permission.

2. Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC were served with summons and the Complaint and was granted until February 6, 2020 to answer or otherwise respond. Dkts. 6-7, 14.

3. After Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC were served, their in-house counsel reached out to the undersigned to explain that these Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC did not send the subject facsimile and that an imposter entity or person sent the subject facsimile by misusing the intellectual property rights of Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC.

4. Plaintiff's counsel has vetted out the above position and plausibly accepts that Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC did not transmit the subject facsimiles. Plaintiff's counsel is still attempting to ascertain the exact person(s) and/or entity(ies) that sent the subject facsimile.

5. As of today's date, Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC have neither answered or moved for summary judgment.

6. For these reasons, Plaintiff wishes to voluntarily dismiss Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC and name the JOHN DOE Defendants as soon as possible, likely within the next 30 to 45 days.

WHEREFORE, Plaintiff hereby gives notice that this action should be voluntarily dismissed without prejudice against Defendants WYNDHAM DESTINATIONS, INC. and RCI, LLC with both each party named herein to bear their own attorney's fees and costs. Furthermore, Plaintiff asks that this case remain open to allow it to name the JOHN DOE Defendants within the next 30 to 45 days.

Dated: January 28, 2020

Respectfully submitted,

/s/ James C. Vlahakis

James C. Vlahakis, Esq.

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